IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No. 540 of 1995
Date of Decision: 22.08.2007

Dharam Pal — **Appellant through**
Mr. J.C.Verma, Sr. Advocate
with Mr. Dinesh Kumar and
Ms. Sweta Gupta, Advocates

versus

Managing Director, Punjab Dairy Development Corporation Ltd. and another

Respondents through
Mr. D.S.Patwalia, Advocate

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN, CHIEF JUSTICE
HON'BLE MR. JUSTICE MAHESH GROVER

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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Vijender Jain, Chief Justice (Oral)

This appeal has been filed by the appellant aggrieved by the order of learned Single Judge dismissing his writ petition.

The short controversy involved in this appeal is with regard to the grade of pay which ought to have been given to the appellant. The case of the appellant was that he had to be given the pay scale of Rs. 510-800 on the principle of 'equal pay for equal work', which was being given to the persons similarly situated as him.

According to the counsel for the appellant, initial grade of the Carpenter in Punjab Dairy Development Corporation Limited was Rs. 140-300 and the revised pay scale was Rs. 510-800. From 1978, the appellant was getting his pay in the grade of Rs. 400-600 till his absorption in the Punjab State Co-operative Milk Producers Federation Limited, Chandigarh on 4.1.1984.

The appellant is aggrieved that other Carpenters, namely, Jarnail Singh, Hazari Lal and Jagdish Singh, similarly placed as him, were given the pay scale in the grade of Rs. 510-800, whereas on his absorption, he was given the grade of Rs.400-600.

We have perused the order passed by the respondent dated 4.1.1984 Annexure P-4. In paragraph No.3 of the said order, it has been mentioned that posts of Carpenters in the pay scale of Rs. 510-800 shall be personal to the present incumbents and shall stand abolished on their leaving the service of Milkfed on or vacation otherwise.

In the Service Jurisprudence, there is no such thing as personal. If a Carpenter was entitled to grade of Rs.510-800 as is discernible from Annexure A-1 which is a revision of pay scale of employees of Punjab Dairy Development Corporation Limited w.e.f. 1.1.1978, then it does not stand to reason that why the appellant was placed in the grade of Rs.400-600.

It was contended before us by learned counsel for the respondents that these three persons named by the petitioner were given the pay scale of Rs.510-800 (revised) as the Managing Director of Punjab Dairy Development Corporation Limited gave the benefit to these three employees as a personal measure and not to the rest, therefore, on the

absorption of these employees into Milkfed, only these employees who were getting higher pay scale of Rs. 510-800 would be entitled as per the terms of the letter of absorption and not the appellant before us.

There is an obvious fallacy in the arguments advanced by learned counsel for the respondent. We have already noticed that when the pay scale of carpenter was revised on 01.01.1978 from Rs.140-300 to Rs. 510-800, then there is no reason why the appellant be not granted the pay scale of Rs. 510-800 which is grade of carpenter.

From the perusal of the record, we do not find the existence of any pay scale of Rs. 400-600 of a carpenter either in the revised or in the pre-revised pay scales.

However, it has been contended before us by learned counsel for the respondents that when the appellant has not challenged the grant of pay scale of Rs. 510-800 from 1978 till 1984 and has not agitated his scale for the higher pay scale with Punjab Dairy Development Corporation Limited, no benefit can be given to him, and in any event of the matter, if the appellant is entitled to higher pay scale, the respondent Milkfed who is the successor employer will not be liable to pay the same.

We have perused the paper book. Annexures P-5 to P-9 are the representations made by the appellant to the erstwhile parent organisation Punjab Dairy Development Corporation Limited. In one of the representation, the appellant has stated that " I am Matriculate and also having passed I.T.I. in the Carpentry Trade. Also prior to my joining, I had served with the Govt. of India, Text Book Press, Industrial Area, Chandigarh, as a carpenter. He made specific grievance for grant of higher pay scale to Hazari Lal in the following words:-

> " That Sir, even my counterpart i.e. Hazari Lal, carpenter has been allowed the pay scale of Rs. 510-800 whereas I remain placed in the same pay scale of Rs. 400-600. He has been undertaking various jobs of carpentry nature apart from the fabrication jobs, at various milk bars, Milk Booths, MACs/MCCs alongwith the Carpentry repairs of the transport fleet and therefore, his pay scale be also revised to that of Rs. 510-800."

It seems that all the representations made by the appellant fell on deaf ears as no action was taken on the same. At the time of absorption of the services of the appellant by the respondents, they took up a plea that the appellant was drawing his salary in the grade of Rs. 400-600 whereas he was not entitled to grade of Rs. 510-800.

Denial of grade of Rs. 510-800 to the appellant is perse discriminatory. In the parent organisation, pay scale of the carpenter was Rs. 510-800 and non-granting of the same to the appellant initially was itself wrong. If the appellant had acquiesced to it, then the case would have been different but he represented to the parent department for grant of similar pay scale as has been given to other carpenters. We fail to understand that in the absence of any other grade of carpenter except Rs. 510-800, why the appellant was given the grade of Rs. 400-600. Therefore, there is no merit in the submission of learned counsel for the respondents.

We do not have any record before us as to under what circumstances, the Managing Director had promoted other three carpenters to higher pay grade while denying the same to the appellant and hence do not find any justification for the same.

With these directions, the appeal is allowed and the judgment passed by the learned Single Judge is set-aside. The appellant shall be entitled to the same grade as has been given to other carpenters in the parent organisation. The appellant shall also be entitled to get the arrears of his salary on the basis of grade of Rs. 510-800 which was revised from time to time. All the arrears of the salary shall be paid to the appellant within a period of three months by the respondents from the date of receipt of copy of this judgment.

(VIJENDER JAIN)
CHIEF JUSTICE

(MAHESH GROVER)
JUDGE

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